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 PHILIP MORRIS USA INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

NIKKI POOSHS,

Plaintiff,

vs.

ALTRIA GROUP, INC., *et al.*

Defendants.

Case No. C 04-01221-PJH-JCS

**[PROPOSED] ORDER REGARDING
 PHILIP MORRIS USA INC.'S
 OBJECTIONS TO DIRECT-EXAM
 EXHIBITS – DR. CUMMINGS**

Defendant Phillip Morris USA Inc. has objected to certain exhibits set forth below that Plaintiff has indicated will be used during the direct examination of K. Michael Cummings.

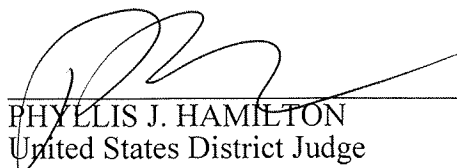
Upon consideration of all the papers filed and the parties' argument, the Court rules as follows:

Plaintiff's Exh No	Objections	Court's Ruling
26	Violates Pretrial Order #6 (design); Irrelevant; 403	<i>overruled</i>
66	Irrelevant; 403 (as to portions regarding a report on smaller babies); Subject to redaction and rule of completeness regarding excised portions, no further objections	<i>overruled</i>
70 A	Object to portions that: Violate Pretrial Order #6 (design); Violate Pretrial Order #22 (aggregate harm) (see 1:15-1:58, 2:05- 2:16, 2:16-2:53). Subject to redaction, no further objections	<i>deferred until court sees video</i>
80	Cumulative	<i>overruled</i>
82	Cumulative	<i>overruled</i>
105	Cumulative	<i>overruled</i>
111	Violates Pretrial Ruling #22 (aggregate harm); Irrelevant; 403; Hearsay	<i>sustained</i>
135	Violates Pretrial Ruling #22 (aggregate harm); Irrelevant; 403; Hearsay	<i>sustained</i>
137	Subject to redactions agreed on by parties, no further objections	<i>approved</i> <i>sust</i>
172	Previously excluded by Court as design evidence (Jan. 21, 2016 Tr. at 593-94); Violates Pretrial Order #6 (design)	<i>sustained</i>
180	Irrelevant; 403	<i>overruled</i>
208	Violates Pretrial Order #6 (design)	<i>deferred until court sees video</i>
218	Violates Pretrial Order #6 (design); Hearsay; Outside scope of expertise	<i>sustained</i>
228	Violates Pretrial Order #6 (design); Irrelevant; Unfair prejudice	<i>sustained</i>

Plaintiff's Exh No	Objections	Court's Ruling
1631	Previously excluded by Court (Jan. 22, 2016 Tr., 623-24); Violates Pretrial Ruling #22 (aggregate harm); Irrelevant; 403; Hearsay	<i>sustained</i>
1765	Irrelevant; 403; Hearsay	<i>sustained</i>
2023	Objection and request to redact last sentence on page 5 ("a) What is the lower delivery level beyond which the smoking act is not reinforced?" as Violate Pretrial Order #6 (design); Irrelevant; 403. Subject to redaction, no further objections. (Parties have agreed to all other redactions.)	<i>approved</i>
2317	Subject to redactions agreed on by parties, no further objections	<i>approved</i>
2393	Cumulative	<i>overruled</i>
3429	Violates Pretrial Order #6 (design) ; Outside scope of expertise; Hearsay	<i>sustained</i>
3535	Outside scope of expertise; Irrelevant; 403; If objections overruled, request redaction of portions relating to "race" on PT03405-0016-19 and Charts 9 and 10 on PT03405-0043-44 as Irrelevant; 403	<i>approved</i>
3799	Cumulative; Subject to Court's ruling on portions to be admitted (PM requests Court admit page labeled PM03681-0010 for completeness); portions Violate Pretrial Order #6 (design); Violate Pretrial Order #84 (non-lung cancer conditions)	<i>overruled with PM addition</i>

IT IS SO ORDERED.

Dated: 1/25/16


 PHYLLIS J. HAMILTON
 United States District Judge